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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,747	11/28/2001	Hiroyuki Kurase	0879-0364P	8657

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EXAMINER

AGGARWAL, YOGESH K

ART UNIT	PAPER NUMBER
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2622

NOTIFICATION DATE	DELIVERY MODE
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11/13/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No. 09/994,747	Applicant(s) KURASE, HIROYUKI	
	Examiner YOGESH K. AGGARWAL	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 is/are allowed.
- 6) ☒ Claim(s) 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2622

Response to Arguments

1. Applicant's arguments with respect to claims 17 and 18 have been considered but are moot in view of the new ground(s) of rejection. The claim is rejected in view of newly found reference to Ramirez et al. (US Patent # 6,504,575). The Examiner apologizes for this delay in prosecution.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Habuto et al. (US Patent # 6,810,441), Niwa (US Patent # 6,538,692) and in further view of Ramirez et al. (US Patent # 6,504,575).

[Claims 17 and 18]

Habuto teaches a video and audio device (figure 4) comprising an image-capturing device (camera unit 11) that converts received optical signals into captured image data (col. 9 lines 50-53); an audio reproducing device that reproduces audio signals from digital audio data (col. 8 lines 23-26); a memory card accessed by the image capturing device and audio reproducing device, that stores one or both of audio data and image data including image captured data (col. 10 lines 1-3); a device (MPU 19, col. 9 lines 64-64, figure 4) that estimates the amount of image data acquired from an image capturing operation (col. 12 lines 9-29) and a control device which

Art Unit: 2622

controls the storing of captured image data in the memory card wherein if the memory card capacity is less than the estimated amount of image data, and if audio data is stored in the memory card, a selected audio data is deleted from the memory card (col. 12 line 30-col. 13 line 19, figure 8). Regarding the newly recited limitations "if audio data is not stored in the memory, the image capturing operation is inhibited", it would be obvious to one skilled in the art in Habuto that if Habuto does not have audio data stored in the memory card and the card becomes full, the image capturing operation' cannot take place since the memory card is full. Habuto fails to teach that the image data is stored in a buffer memory while the memory card is full and, transports it to the external memory upon deletion of the audio data from the memory card. However Niwa teaches that when the amount of picture coded data is larger than the amount of free space on the external medium needed to record, the image is recorded in an internal memory and transferred to the external medium when a new memory card is inserted (col. 6 lines 6-27). Therefore taking the combined teachings of Habuto and Niwa, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have the image data be stored in a buffer memory while the memory card is full and transports it to the external memory as taught in Niwa into the system of Habuto when the audio data is deleted in order for the user not to miss a picture taking opportunity while the memory card is full.

Habuto in view fails to teach deleting only the audio data from the memory card. However Ramirez teaches that Should the user presses the "Delete" soft key 412, it is unclear what operation the user wishes to perform :delete the image, delete only the sound, or both. Indeed, an inexperienced user may not even consider all three of these possibilities before pressing the "Delete" button. Therefore, to guide the user through this operation, the dynamic

Art Unit: 2622

overlay bars 430 and 432 are updated to prompt the user whether the image or the sound annotation is to be deleted, as shown in FIG. 8B. The user may then indicate which is to be deleted by pressing the corresponding soft key 412 (col. 8 lines 55-65). Therefore taking the combined teachings of Habuto and Niwa and Ramirez, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have the deleting only the audio data from the memory card so that the user deletes the data whichever is deemed necessary.

Allowable Subject Matter

3. Claim 16 is allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOGESH K. AGGARWAL whose telephone number is (571)272-7360. The examiner can normally be reached on M-F 9:00AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571)-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2622

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yogesh K Aggarwal/
Examiner, Art Unit 2622